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September 25, 2002

FILED
HARRISBURG, PA

SEP 30 2002

MARY E. L.
Per JL

The Honorable Christopher C. Conner
United States District Court
Middle District of Pennsylvania
128 Walnut Street
P.O. Box 98
Harrisburg, PA 17108

RE: Northland Insurance Company v. Lincoln General Insurance Company
v. Woolever Brothers Transportation, Inc.
Case No. 1:CV-01-763

J. Wm.

Dear Judge Conner:

We are in receipt of Judge Kane's Order dated September 17, 2002 reassigning the above-referenced case to Your Honor. We are counsel for Lincoln General Insurance Company. Although your former firm is not directly involved in this present case, it was significantly involved in the underlying cases which form the basis for the present case. The present case involves issues as to who is ultimately responsible for the payment of defense and settlement costs incurred in responding to multiple underlying actions involving a double fatality, and other injuries and property damage. Vernice Statts was a driver of the tractor-trailer which caused the accident. Vernice Statts was allegedly employed by JHM Enterprises. Lincoln General insured JHM Enterprises. Lincoln General hired Mette, Evans & Woodside to defend Statts and JHM in the underlying actions. Craig Stone was the partner in charge of this file at Mette, Evans & Woodside. Although Attorney Stone was undoubtedly involved in overseeing this file throughout its duration, Jayson Wolfgang, and then Michael Pipa, performed most of the day to day work after litigation was commenced.

One of the critical issues involved in this case is the alleged fraud perpetrated by a number of the parties when they misrepresented the lease arrangement between Woolever and JHM in an attempt to relieve Woolever and its insurer from liability, and impose sole liability on JHM and its insurer. The alleged misrepresentations were made to Attorneys Stone, Wolfgang, and Pipa, among others. Accordingly, all three are listed as witnesses in the joint case management plan, and it is anticipated that all three will testify at the trial of this matter. Further, Lincoln General is seeking to recover all of the attorneys' fees paid to Mette, Evans & Woodside from Northland since it is Lincoln General's position that Northland had the primary duty to defend JHM and Statts. Hopefully, the parties will be able to stipulate as to the reasonableness of the attorneys' fees charged by Mette, Evans &

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Woodside. However, if that is not the case, we will need to call one or more witnesses from Mette, Evans & Woodside to testify as to the reasonableness of its fees.

As soon as we received Judge Kane's Order of September 17, 2002, we advised the other parties that you were a former partner at Mette, Evans & Woodside, and explained that we anticipated calling the above referenced three attorneys who currently or formerly worked at Mette, Evans & Woodside. (We understand that Attorneys Wolfgang and Pipa are no longer associated with Mette, Evans & Woodside). Plaintiff Northland Insurance Company had no objection to Your Honor handling this case despite our disclosure of your past relationship with Mette, Evans & Woodside. However, Woolever does object to Your Honor handling this case as a result of your past relationship with the current and former attorneys at Mette, Evans & Woodside who would be witnesses in this case.

Although we believe Your Honor could be fair and impartial, Lincoln General has no desire to create an appealable issue involving whether Your Honor's past affiliation with attorneys who will be witnesses in this case is grounds for recusal. Accordingly, we concur in Woolever's request that Your Honor reassign this case back to Judge Kane. We would be pleased to set up a conference call with all of the attorneys and Your Honor if you desire to discuss this matter in person. Although I agreed to bring the parties' position to Your Honor's attention, please let the parties know if you desire Woolever to file a formal motion for recusal.

Very truly yours,

McNEES WALLACE & NURICK LLC

By Jonathan H. Rudd

JHR/jp

C: The Honorable Yvette Kane
Ira Lipsius, Esq.
Andrew R. Spiegel, Esq.
Robert Kraft (LGIC No. 39737)